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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,072	06/09/2005	Michael Gunzert	GUNZ3001/FJD	4277
23364 7590 06/24/2009 BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314-1176				
EXAMINER CHERRY, STEPHEN J				
ART UNIT 2863		PAPER NUMBER		
MAIL DATE 06/24/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/510,072

Applicant(s)

GUNZERT ET AL.

Examiner

Stephen J. Cherry

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20, 23, 28, 30 and 32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20, 23, 28, 30 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 01 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6-15-2009 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,444,644 to Divjak.

Regarding claim 28, Divjak discloses a measuring device for process technology, to be used in measurement and/or cleaning and/or calibration installations in the area of process automation, for measuring pH-values and/or redox potentials and/or other process parameters ('644, fig. 1, ref. 19), comprising: a central unit ('644, fig. 1, ref. 20); a central transmission line ('644, fig. 1, ref. 45); at least one measurement module connected to said central unit by said central transmission line for transferring a data

signal over said central transmission line ('644, fig. 1, ref. 19-1, connection through ref. 27-29, ref. 14, and ref. 45); a multiplexer ('644, fig. 1, ref. 18); a selection line associated with each measurement module for connecting associated measurement module to said central unit and to said multiplexer ('644, fig. 1, ref. 42 and 34-35); and a measurement module transmission line associated with each measurement module, for connecting its associated measurement module to said multiplexer ('644, fig. 1, ref. 19-1 to 19-4), wherein: each measurement module is selectable by said central unit by a selection line ('644, fig. 1, ref. 42 and 34-35); said central transmission line and the selection line being different lines ('644, fig. 1, ref. 42 and 34-35 separate from ref. 45); the output of said multiplexer is connectable with said central unit; and said multiplexer is controllable via said selection lines ('644, fig. 1, ref. 42 and 34-35 and multiplexer).

Divjak discloses the use of four conditioning circuits, ref. 12-1 to 12-4 in figure 1. In an instance where there is only one or two quantity to be measure at the present time, it would be obvious to eliminate unused conditioning circuits, thereby eliminating conditioning circuits 12-3 and 12-4, and possibly 12-2. By elimination of ref 12-3 and 12-4 of Divjak, an association of a selection line with each of the remaining conditioning circuits is established, meeting the limitation of the claim.

Thus, it would have been to one of ordinary skill in the art at the time the invention was made to eliminate unused conditioning circuits of Divjak because the court has held that omission of an element and its function is obvious if the function of the element is not desired (Ex parte Wu , 10 USPQ 2031 (Bd. Pat. App. & Inter. 1989)).

Claims 20, 23 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,444,644 to Divjak.

Regarding claim 30, Divjak discloses an operating method for a measuring device for process technology, to be used in measurement and/or cleaning and/or calibration installations in the area of process automation, for measuring pH- values and/or redox potentials and/or other process parameters, having a central unit, and at least one measurement module connected with the central unit; comprising the steps of: providing a selection line for each measurement module over which a data signal is transferred ('644, fig. 1, ref. 42 and 34-35); transmitting data from the central unit over a central transmission line to all measurement modules ('644, fig. 1, data transferred through ref. 42 and 34-35); selecting a measurement module by the central unit and an associated selection line ('644, fig. 1, ref. 42 and 34-35 and col. 5, line 47); and utilizing data sent from the central unit only in the measurement module selected by means of the associated selection line ('644, fig. 1, ref. 42 and 34-35, data used when selected by multiplexer, ref. 18), wherein: different measuring modules are selected, when more than one measuring module is provided, for different selection times periodically by the central unit; and the selection times are changed ('644, col. 4, line 7).

Divjak discloses the use of four conditioning circuits, ref. 12-1 to 12-4 in figure 1. In an instance where there is only one or two quantity to be measure at the present time, it would be obvious to eliminate unused conditioning circuits, thereby eliminating conditioning circuits 12-3 and 12-4, and possibly 12-2. By elimination of ref 12-3 and

12-4 of Divjak, an association of a selection line with each of the remaining conditioning circuits is established, meeting the limitation of the claim.

Thus, it would have been to one of ordinary skill in the art at the time the invention was made to eliminate unused conditioning circuits of Divjak because the court has held that omission of an element and its function is obvious if the function of the element is not desired (Ex parte Wu , 10 USPQ 2031 (Bd. Pat. App. & Inter. 1989)).

Regarding claim 20, Divjak discloses an operating method as claimed in claim 30, further comprising the steps of: controlling a multiplexer by the selection lines such that data transmitted over a module transmission line of the selected measurement module are forwarded via the multiplexer to the central unit ('644, col. 4, line 7).

Regarding claim 23, Divjak discloses an operating method as claimed in claim 30, wherein:

the measurement modules are periodically selected by the central unit ('644, col. 4, line 7).

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,444,644 to Divjak.

Regarding claim 32, Divjak discloses an operating method for a measuring device for process technology, to be used in measurement and/or cleaning and/or

calibration installations in the area of process automation, for measuring pH-values and/or redox potentials and/or other process parameters, having a central unit, a multiplexer and at least one measurement module connected with the central unit ('644, fig. 1, ref. 20, 18, and 12-1); comprising the steps of: providing a selection line for each measurement module over which a data signal is transferred ('644, fig. 1, ref. 42 and 34-35); selecting a measurement module by the central unit and an associated selection line ('644, fig. 1, ref. 42 and 34-35, particular values of lines 34-35 allow data from ref. 12-1 to be read); and controlling the multiplexer by the selection lines such that data transmitted over a module transmission line of the selected module are forwarded via the multiplexer to the central unit ('644, fig. 1, output of microprocessor, ref. 20, controls multiplexer, ref. 18 and col. 4, line 7).

Divjak discloses the use of four conditioning circuits, ref. 12-1 to 12-4 in figure 1. In an instance where there is only one or two quantity to be measure at the present time, it would be obvious to eliminate unused conditioning circuits, thereby eliminating conditioning circuits 12-3 and 12-4, and possibly 12-2. By elimination of ref 12-3 and 12-4 of Divjak, an association of a selection line with each of the remaining conditioning circuits is established, meeting the limitation of the claim.

Thus, it would have been to one of ordinary skill in the art at the time the invention was made to eliminate unused conditioning circuits of Divjak because the court has held that omission of an element and its function is obvious if the function of the element is not desired (Ex parte Wu , 10 USPQ 2031 (Bd. Pat. App. & Inter. 1989)).

Response to Arguments

Applicant's arguments with respect to claims 20, 23, 28, 30 and 32 have been considered but are moot in view of the new ground of rejection.

Applicant argues that Divjak does not teach the association of selection lines with measurement modules, as claimed; however, it is obvious to eliminate undesired measurement modules, thereby establishing an association of measurement modules with selection lines. It is noted that only one measurement module is required in the claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Cherry whose telephone number is (571) 272-2272. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. J. C./
Examiner, Art Unit 2863

Drew A. Dunn
/Drew A. Dunn/
Supervisory Patent Examiner, Art Unit 2863